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Canadian Trade  
and Tariffs Committee

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AUGUST 1977

## CANADIAN TRADE AND TARIFFS COMMITTEE

### REVIEW OF DEVELOPMENTS IN THE GATT MULTILATERAL TRADE NEGOTIATIONS IN GENEVA

## CANADIAN TRADE AND TARIFFS COMMITTEE

The Canadian Trade and Tariffs Committee (CTTC) was established by Order-in-Council in November 1973 to meet the Government's wish to have an appropriate mechanism to receive the views of and to maintain liaison with all interested parties in Canada with respect to Canada's participation in the current GATT Multilateral Trade Negotiations (MTN).

The Committee, which is supported by a small Secretariat, includes representatives - generally at the Assistant Deputy Minister level - from each of the following; senior officials from other Government departments and agencies, e.g. Supply and Services and Fisheries and Environment Canada, participate in the work of the Committee as required:

Agriculture Canada	Industry, Trade and Commerce
Consumer and Corporate Affairs	Labour Canada
Energy, Mines and Resources	Privy Council Office
External Affairs	Regional Economic Expansion
Finance	Revenue Canada

The Head and Deputy Head of the Canadian Delegation to the MTN in Geneva are also members of the Committee.

To date, the Committee has received nearly 400 briefs and supplementary submissions; it has held over 70 oral consultations with companies, associations and other groups which have submitted briefs to the Committee.

All information provided to the CTTC and all views expressed are considered confidential:

Canadian Trade and Tariffs Committee  
Ottawa, Ontario,  
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August, 1977.

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In the Declaration issued at the conclusion of the Downing Street Economic Summit last May, the major industrialized nations, including Canada, reaffirmed their joint determination to "give a new emphasis to the Tokyo Round of Multilateral Trade Negotiations" and "to make substantive progress in key areas in 1977". With this renewed expression of political will, and given the extensive preparatory work already done, it can reasonably be anticipated that the pace of the GATT negotiations in Geneva will accelerate over the next several months. Proposals made recently by President Carter's Special Trade Representatives, Mr. Robert Strauss, and discussed with representatives of the European Community, support this expectation.

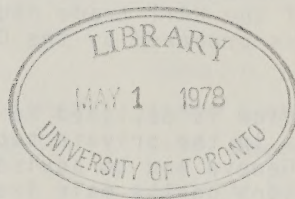
The Canadian Trade and Tariffs Committee has considered it especially appropriate at this time, as part of its continuing information efforts, to make available to all interested parties in Canada a review of the GATT trade negotiations. The original draft of the paper was prepared by the Canadian Delegation in Geneva.

This review is designed to inform the large majority of interested parties in the private sector of the major matters under discussion in Geneva and to advise them of developments to date in the negotiations on the main issues at stake. The review does not, for reasons which will be obvious, set out the details of the Canadian negotiating positions.

The review underlines the description which the Prime Minister has given of the current round of GATT negotiations, namely that "they are potentially the most comprehensive, complex and far-reaching trade negotiations yet attempted". The Committee hopes, therefore, that the review will assist in the preparation of representations from those individuals, companies and organizations who have yet to make their views known to the CTTC. The review should also help those who have already made representations to the Government to consider them in the light of subsequent developments in areas of interest to them.

The information, views and recommendations received by the Committee represent an important contribution to the continuing preparations for the negotiations and in the negotiations themselves. The same is true of the consultations which

.... /2





are continuing with parties in Canada having a specially strong and direct interest in major issues such as subsidies and countervailing duties, sector negotiations, government procurement, technical barriers to trade, customs valuation and others.

Additional copies of the review are available on request. Minor questions concerning the information contained in the review, should be directed to the Committee Secretariat by telephone. Substantive questions and comments should be addressed to the Secretary of the Committee so that considered replies can be prepared. New briefs, and modifications or supplements to submissions already sent to the Committee, should also be mailed as soon as possible to the Secretary.

L.E. Couillard,  
Chairman.

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# THE CANADIAN TRADE AND TARIFFS COMMITTEE

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CANADIAN TRADE AND TARIFFS COMMITTEE

THE TOKYO ROUND

The "Tokyo Round", as the new multilateral trade negotiations (MTN) are known, was formally launched in Tokyo, in September 1973, when Ministers from nearly one hundred countries, members of the General Agreement on Tariffs and Trade, adopted the Tokyo Declaration.

The "Tokyo Round" is potentially the most far-reaching, comprehensive and complex set of trade negotiations yet attempted.\* It covers all products, industrial and agricultural, and all important aspects of trade relations, such as tariffs, major non-tariff barriers, subsidies and safeguard measures. This is the first time since the GATT text was agreed in 1947, that a systematic attempt is being made to deal with the trade restricting and distorting effect of non-tariff barriers.

The Tokyo Declaration calls for negotiations leading to the "expansion and ever-greater liberalization of world trade and improvement in the standard of living and welfare of the people of the world, objectives which can be achieved, inter alia, through the progressive dismantling of obstacles to trade and the improvement of the international framework for the conduct of world trade". The Tokyo Declaration also commits participating countries to "secure additional benefits for the international trade of developing countries so as to achieve a substantial increase in their foreign exchange earnings, the diversification of their exports, the acceleration of the rate of growth of their

\*See Appendix I - Background to Current GATT MTN.





trade, ...". The Declaration indicates that the negotiations are to be comprehensive, covering all significant barriers to trade, both tariffs and non-tariff barriers for agricultural and industrial products. It also provides that the negotiations are to be conducted on the basis of "the principles of mutual advantage, mutual commitment and overall reciprocity...".

The Tokyo Declaration states that the negotiations should aim to:

- "(a) conduct negotiations on tariffs by employment of appropriate formulae of as general application as possible;
- (b) reduce or eliminate non-tariff measures or, where this is not appropriate, to reduce or eliminate their trade restricting or distorting effects, and to bring such measures under more effective international discipline;
- (c) include an examination of the possibilities for the co-ordinated reduction or elimination of all barriers to trade in selected sectors as a complementary technique;
- (d) include an examination of the adequacy of the multilateral safeguard system,..., with a view to furthering trade liberalization and preserving its results;
- (e) include, as regards agriculture, an approach to negotiations which, while in line with the general objectives of the negotiations, should take account of the special characteristics and problems in this sector;
- (f) treat tropical products as a special and priority sector".

While the Tokyo Declaration was issued in 1973, substantive negotiations did not get underway until early 1975



when the United States Trade Act was passed by Congress. This legislation is, in effect, the negotiating mandate of the United States Administration in the Tokyo Round.

#### THE CANADIAN PERSPECTIVE

Canadians depend on foreign trade for employment and income much more than do the citizens of most other countries and, notably, much more than do Americans. Foreign tariffs and non-tariff measures remain a major constraint to increasing and diversifying Canadian exports. There is also a need for a better balance of opportunity for trade in manufactures. In the case of tariffs, it is not only the level but also the structure of foreign tariffs that inhibit a realization of Canada's export potential for products derived from the primary sectors - agriculture, fisheries, minerals (including, for example, petroleum) and forestry.

To achieve its objectives, Canada has deemed it necessary, as in the past, to play an active part in the current multilateral trade negotiations, in full recognition that a successful outcome of the negotiations will require Canadian concessions.

The Canadian government is pressing for significant liberalization of trade in agriculture and fisheries to enable Canadians to increase production for export of those food products in which it has competitive advantage, such as grains and oilseeds, and fisheries products.

For forest products and some non-ferrous metals, Canada has advocated sector negotiations as a means of achieving maximum trade liberalization through the reduction or elimination of tariffs and non-tariff measures. These are areas that offer





significant potential for further processing prior to export. For other segments of forestry, mineral and related industries, Canada's objectives should be attainable through the more general approaches.

In a somewhat broader context, Canadian businessmen have also identified the existence of foreign non-tariff barriers as a significant impediment to the export of Canadian products. Canada is pressing other countries to ensure that there are real and meaningful reductions in the trade distorting effects of such non-tariff barriers as quota restrictions, product standards, export subsidies, restrictive government procurement practices and various customs procedures.

Because Canada is highly dependent on exports, it is particularly vulnerable if other governments decide to take "safeguard" action to block Canadian exports. It is, therefore, important to try to ensure that the security of the concessions which Canada pays for in the Tokyo Round are not eroded through the inappropriate use of safeguard action, of countervailing duties and of other trade-restricting measures. Moreover, Canada is proposing, with special emphasis as regards certain areas of the negotiations, international surveillance and dispute settlement mechanisms to ensure that the benefits resulting from the MTN are not eroded and that the interests of all countries, both large and small, are equitably treated under the GATT rules.

The Canadian government has, on a number of occasions, set out its broad policy on Canada's participation in the negotiations:





---In a speech at the Ministerial meeting in Tokyo, Canada's Minister of Industry, Trade and Commerce stated

"It is Canada's view that the forthcoming negotiations should seek in particular to attain the following objectives:

- the reduction or elimination of trade restricting or distorting effects of non-tariff measures and bringing such measures under more effective international scrutiny and discipline;
- a substantial reduction of tariffs on both industrial and agricultural products;
- a significant improvement in the terms of access for agricultural exports, resulting in a greater role over time for comparative advantage and increased stability in international trade;
- in carefully defined and selected sectors, a comprehensive attack on all barriers to trade especially where these impede the processing and upgrading of resources in the country of origin."

"If those are to be achieved it is essential that all participants obtain authority both to reduce any tariff rate to zero and to negotiate and implement solutions to non-tariff measures."

---In a press release dated January 20, 1975, the Prime Minister announced that

"Canada intends to play a full and active role in these important negotiations with a view to ensuring, as far as possible, that they will be substantial and successful.

Canada will seek improved access to export markets for industrial, agricultural and fishery products so as to benefit all sectors and all regions of the Canadian economy. This will make possible more specialized and larger scale production for our processing and manufacturing industries and thus improve their competitive position at home and abroad.

Canada will particularly seek the removal or substantial reduction of foreign trade barriers which act as a major constraint to the further processing and manufacturing of Canada's renewable and non-renewable resources prior to export."



-- In his Budget speech in the House of Commons on March 31, 1977, the Minister of Finance reiterated that it is the Canadian government's policy to seek a freer world trading environment, as one way of improving the standard of living of Canadians. In his Budget Document, the Minister also made the following comments:

"In general the Multilateral Trade Negotiations are not moving ahead as rapidly as originally envisaged. They are expected to become more active later this year. These are important negotiations. Canada's growth and prosperity are heavily dependent on foreign trade. To reap the benefits of scale and specialization and to improve productivity, the manufacturing and processing industries need better access to large foreign markets.

Many businessmen and workers are concerned that reductions in Canadian tariffs and other trade barriers will create economic dislocation. The Government is considering how best to ensure that economic adjustments needed to adapt to a more liberal international trading environment are carried out without undue hardship to Canadian firms and workers. However, Canada cannot afford to adopt a protectionist attitude toward imports. Canadian trade barriers will have to be lowered in return for concessions by other countries.

The Government is consulting with provincial governments, Canadian producers and manufacturers, labour unions and other interested parties concerning the negotiations. These consultations will intensify in the coming months. Canadian businessmen should identify not only the problems they may face from increased competition from imports but also the benefits which should be sought for their exports. In these wide-ranging negotiations, which will set the trade rules for the 1980's, Canada will be looking for substantial reductions in other countries' tariff and non-tariff barriers."

-- In his speech at the Conference on Industrial and Economic Cooperation at Paris on 30 May 1977, the Minister of Energy, Mines and Resources said that

"Canada is convinced that the MTN must provide new opportunities for trade and industrial development in developing and raw material exporting countries, with improved access to developed country markets."





The Minister reiterated the Canadian government's support for major and comprehensive liberalization of tariff and non-tariff measures on industrial and agricultural products.

#### STRUCTURE OF THE MULTILATERAL TRADE NEGOTIATIONS

The current MTN is directed by a Trade Negotiations Committee (TNC), consisting of representatives of all countries participating in the negotiations. The TNC has set up seven negotiating groups which cover the main areas provided for in the Tokyo Declaration. Representatives of all countries may participate in each of these seven groups. Two of the groups are further broken down into specialized sub-groups. A listing of the groups and sub-groups follows:

##### Group on Non-Tariff Measures

- Sub-group on Subsidies and Countervailing Duties
- Sub-group on Government Procurement
- Sub-group on Technical Barriers to Trade ("Standards")
- Sub-group on Customs Matters (including Customs Procedures and Valuation)
- Sub-group on Quantitative Restrictions (QR's)

##### Group on Tariffs

##### Group on Sectors

##### Group on Agriculture (including fisheries)

- Sub-group on Grains
- Sub-group on Meat
- Sub-group on Dairy Products

##### Group on Safeguards

##### Group on Tropical Products

##### Group on Framework



## NON-TARIFF MEASURES

The GATT includes rules on such non-tariff measures as quantitative restrictions (QR's), customs procedures and countervailing duties. The first four rounds of negotiations did not extend to non-tariff barriers and were aimed in the main at reductions in tariffs. The first major departure from this was in the Kennedy Round when efforts were made to negotiate an international code on anti-dumping duties and an international agreement on grains (which ultimately failed), in addition to the traditional negotiation to reduce tariffs. Because governments are turning more and more to the use of non-tariff measures to restrict imports, countries participating in the Tokyo Round are placing far greater emphasis on negotiations aimed at the major non-tariff measures. Wherever appropriate, the intention is to formalize the results of those negotiations in the form of agreed "codes" of conduct in international trade relations. In other cases, agreed modifications will be made to the text of the GATT itself.

The negotiations on non-tariff measures are based on nearly nine years of preparation. A large number of countries have submitted to the GATT Secretariat about 850 examples of non-tariff measures which these countries believe either hamper exports or provide unfair advantages to competitors. Of these 850 "notifications", Canada has notified over 180 non-tariff measures maintained by 26 countries. The measures notified include the following, maintained by:





### the USA: Countervailing Duties

Customs Valuation ("final list" exemptions from  
current US valuation regulations)

DISC (a tax holiday or deferral scheme linked to exports)

Government Procurement (Buy America Act)

### Standards (electrical and building codes)

the EC: Government Procurement

## Import Restrictions

Standards (electronic products)

Export Subsidies (agricultural products)

## Japan: Import Restrictions

### Export Subsidies (tax incentives for exports)

## Credit Restrictions for Imports

## Licensing and Exchange Control

Canada's non-tariff measure notifications were based on a study of information provided by the business community to the departments concerned. Further, the Minister of Industry, Trade and Commerce wrote to over 5,000 companies and associations for information on non-tariff measures that impede Canadian exports. Canada submitted its list of non-tariff measures to the GATT Secretariat and notified each country which was maintaining a barrier. All notifications have been examined in detail in GATT meetings during the preparatory period leading up to the formal negotiations.

## Subsidies and Countervailing Duties

The sub-group charged with negotiations in this important area is considering the related issues of improved international discipline on the use of subsidies (both export subsidies and subsidies paid to encourage industrial development)



and the application of offsetting measures - traditionally, countervailing duties.

Separate GATT articles govern these two issues, but there is a link in practice between them, because countries may apply countervailing duties to offset other countries' subsidies on exports. Under the existing GATT provisions regarding subsidies (Article XVI), the industrial countries have undertaken not to "grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market". In addition the GATT exhorts countries to "avoid the use of subsidies on the export of primary products". <sup>1/</sup> Countries may subsidize the exportation of primary products subject to the provision that such subsidies shall not result in the exporting country "having more than an equitable share of world export trade in that product".

The GATT rules covering countervailing duties (GATT Article VI) specify that, as is the case for anti-dumping duties, a country shall not levy a countervailing duty "unless it determines that the effect of the ... subsidization ... is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry".

<sup>1/</sup> A "primary product" is defined to be "any product of farm, forest or fishery or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade".





It has been recognized that it would be desirable to secure 1) limitations on the use of direct export subsidies, 2) rules regarding subsidy programs which result in import replacement or cause injury to other countries' producers in home or third markets, and 3) rules providing better international discipline over countervailing actions. The main issues under consideration include:

- a) whether export subsidies, as defined in general terms and/or an illustrative list, should be prohibited and subject to unilateral countervailing action;
- b) whether it is necessary or appropriate to develop separate rules in respect of subsidization of primary industrial products and agricultural and fisheries products;
- c) the possibility of an agreement which would allow some degree of subsidization for general regional, economic or social purposes which would not be subject to countervailing action;
- d) the development of multilateral surveillance and dispute settlement procedures which will ensure equitable treatment under any new code for all signatories;
- e) whether it is possible or appropriate in this area of the negotiations to provide special or differential treatment for developing countries.

Various delegations have tabled papers for discussion addressing these issues and proposing a range of possible solutions. The objective is to arrive at an agreed Code embodying both



rights and obligations with respect to the use of subsidies and of countervailing duties.

#### Government Procurement

Government procurement policies and practices have long been recognized as a significant non-tariff barrier to trade particularly since they often result in discrimination against foreign suppliers.

Discussions on national procurement policies, procedures and practices for non-defence goods took place in the OECD in Paris over a number of years and achieved considerable progress in technical work, on a non-committal basis, toward the development of a draft international code. However, work in the OECD left a number of important issues unresolved.

This OECD draft forms one of the bases for work in the MTN where, for the first time, international rules and procedures are being considered with a view to reducing discrimination in government procurement.

In its efforts to date, the MTN Sub-group on Government Procurement has identified a range of major issues which are currently the focus of attention for inclusion in the proposed international code. Points under discussion include:

- a) how best to provide a greater degree of non-discrimination between national and foreign bidders in government purchases;
- b) what should be the degree of openness in the procurement process, both in advance of actual purchase and in the publication of contract awards;



- c) which purchasing entities should fall under the provisions of the proposed code;
- d) what might be appropriate threshold values below which provisions of the code would not apply;
- e) what international surveillance measures would be desirable to ensure compliance with provisions of the code;
- f) how best might the settlement of disputes be effected.

Special and differential treatment for developing countries is expected to be provided in any agreed code.

It is anticipated that over the course of the next few months, negotiations will progress to a stage where texts incorporating draft contractual language will be under consideration.

#### Technical Barriers to Trade

Negotiations on an international code are going forward in the Sub-group on Technical Barriers to Trade. The draft Code has as its objective the facilitation of international trade by preventing, reducing or eliminating the barriers to trade caused by technical regulations (the term used in the Code to signify mandatory standards), standards (the term used to signify voluntary standards), test methods and certification systems. Following is a summary of the main provisions in the current version of the draft Code.

- A) Technical Regulations drawn up and applied by central governments or their agencies.

Adherents to the Code would, inter alia, undertake to:





- i) ensure that their technical regulations (and the related test methods and administrative provisions) do not have the effect of creating unnecessary obstacles to international trade;
  - ii) utilize relevant international standards, where they exist, as a basis for their technical regulations, except where these are inappropriate for the adherent concerned;
  - iii) participate in the activities of international standardizing bodies with a view to harmonizing their technical regulations on as wide a basis as possible;
  - iv) notify and consult on any new technical regulation which differs from a relevant international standard, in advance of implementing such technical regulation. (Provision is made for skipping this step in the case of an emergency. In these circumstances, however, the notification and consultation process must be undertaken as soon as possible after the technical regulation is in place).
- B) Technical Regulations drawn up and applied by local government bodies and regulatory bodies other than central government bodies. (In Canada these would be provincial or municipal governments or their agencies.)

Adherents would undertake to use "all reasonable means" to ensure that these bodies comply with the provisions outlined in i-iv above.



C) All Standards

Adherents would undertake to use "all reasonable means" to ensure that all standardizing bodies (central or local government or private bodies) comply with provisions of i-iv above.

D) Certification Systems

The provisions relating to certification procedures and systems are aimed at ensuring that foreign products are not subjected to more rigorous testing procedures than domestic products. Here too, there are two levels of obligation depending on whether the provisions relate to central governments and their agencies or other certification bodies,

E) Information and Assistance

Adherents would undertake to ensure that an enquiry point exists to which all reasonable questions from interested parties in other adherents can be directed.

It is proposed that the Code should apply to all technical regulations, standards and certification systems adopted within the territory of each participating country as of the date on which the Code becomes effective in that country. Existing technical regulations, standards, test methods or certification systems of central governments which create unnecessary obstacles to international trade would have to be brought into conformity with the Code as soon as possible after the Code is signed,





Adherents would also have to use "all reasonable means" to ensure that all other technical regulations, standards or certification systems are brought into conformity with the Code to the extent that they are found to be creating unnecessary obstacles to international trade.

The text of the draft Code has been sent to the Group on Agriculture and the Group on Tropical Products for their consideration with respect to (a) the applicability of the proposed Code to agricultural products, and (b) the extent to which the Code would take account of the special interests of developing countries.

#### Customs Entry Procedures and Valuation

The Sub-group on Customs Matters is examining a range of customs entry procedures and administrative formalities. The major issues here are:

a) Valuation: the Customs Matters Sub-group in dealing with customs valuation is considering what sort of interpretative note or set of detailed rules could be added to the existing GATT article on valuation (Article VII). Over 100 countries value goods on the basis of the Brussels Definition of Value. Under this arrangement, the value for customs duty purposes, speaking generally, is the actual transaction price of the imported goods or the price which the goods would bring in a transaction between an unrelated exporter and importer. Canada (and, for certain of its imports, the United States) continues to value goods, generally, on the basis of the higher of the actual export price for the goods or their comparable selling price in the country of export.



This is an area of the negotiations where countries whose valuation systems are based on the Brussels Definition of Value, are seeking the adoption of an internationally-agreed set of rules. Both Canada and the United States are under pressure from the EEC and others to make changes in their systems. Canada will attempt to influence the development of any new rules on valuation to ensure that these rules reflect its particular trading situation. In particular, it has been emphasized that if there are to be any new rules on valuation, they must deal in adequate precision with the valuation of goods that are sold by an exporter who is related to an importer; a large part of both Canadian imports and exports fall in this category. Another alternative would be to identify in other countries' systems of valuation those particular elements which are unduly restrictive of trade, rather than attempting to devise a completely new set of rules on valuation.

It should be noted that valuation of imported goods is not purely a question of the base for levying ad valorem duties; it also involves the base for levying commodity taxes.

b) Import Documentation: certain countries require the use of documents over and above regular customs invoices or commercial documents to clear goods through customs. Firms in exporting countries, including Canada, have made representations that some of these documentation requirements are excessive and are, in effect, barriers to exports. For example, as a result of representations from the Canadian business community,



Canada has notified the United States that its special customs invoice form 5515 required exporters to provide certain information that seemed unnecessary. Since this notification has been made, the United States has announced that customs form 5515 has been simplified and brought into line with an agreed international format. Canada is continuing to press for additional changes in the form to facilitate clearance of goods through U.S. customs.

c) Penalties for Errors: certain countries assess severe penalties when exporters make what are purely technical violations of customs legislation. These technical errors are often due to the complexity of customs legislation, or simply due to lack of attention on the part of exporters. Canada is pressing for changes in these countries' procedures to ensure that technical errors are not treated on the same basis as fraud and are not subject to harsh penalties.

d) Appraisement and Liquidation of Entries: Canadian businessmen have argued that the USA practice of withholding the final appraisal of imports for many months results in insecurity and uncertainty for them and, of course, reduces the practical availability of "due process" because appeals cannot be initiated in the United States until there has been final appraisal or liquidation of entries. One possible solution would involve drafting an interpretative note to the GATT which would establish reasonable but precise maximum time limits for liquidating customs entries, and hence for the retroactive or deferred assessment of customs duties.





e) Consular Formalities and Fees: a number of developing countries require that exporters either pay a consular fee or obtain certain documentation from their consulates, prior to the export of goods, for these goods to be permitted to enter the country. Developed countries have urged developing countries to remove the requirement for these consular formalities and fees.

Quantitative Restrictions and Related Measures

GATT Article XI generally prohibits quantitative restrictions (QR's), i.e. government regulations which allow imports of particular goods only up to a certain level within a stated period of time. Despite this, a number of countries have retained significant quantitative restrictions, particularly for agricultural trade and textiles. A number of ways of negotiating quantitative restrictions have been proposed. For example, the Sub-group on Quantitative Restrictions could adopt a procedure which would involve individual countries presenting specific requests for the removal of particular quantitative restrictions, or similar measures, maintained by other participants. This would be followed by the submission of offers (to dismantle or reduce the impact of the QR's) by the countries maintaining the restrictions, as well as an examination in the Sub-group of requests and offers that have been made, on a country-by-country basis.

Canada maintains certain quantitative restrictions which have been identified as being of interest to other countries. Another source of concern to our trading partners are the restrictions that result from the purchasing and mark-up practices of provincial liquor boards respecting the imports



of beers, wines and spirits.

From an export perspective, Canada is seeking the removal of import quotas maintained by a number of other countries and, in particular, the extensive import quota system maintained by Japan.

The Sub-group on Quantitative Restrictions is also attempting to work out an international agreement on improved ways of limiting and policing the use of import licensing systems. Currently under consideration are proposals for new provisions relating to licensing systems used for surveillance purposes and to those where permits are used to administer quantitative restrictions or issued in a discretionary fashion.

#### TARIFFS

The Tokyo Declaration, which Canada and other countries participating in the MTN agreed to at the Ministerial meeting in Tokyo, provides that "the negotiations should aim, inter alia, to conduct negotiations on tariffs by employment of appropriate formulae of as general application as possible", with the understanding that there will be overall reciprocity between what each country contributes and what each country receives by way of benefits resulting from the Tokyo Round of negotiations.

To date, the USA, the EEC, Japan and Switzerland have each proposed a tariff-cutting formula. A comparison of the results of applying these tariff formula proposals is listed in Appendix II.





### USA Proposal

The USA has proposed that participants agree to cut all tariffs about 7% and above by 60% of the rate, and tariffs below 7% by declining amounts ranging from 59 to 50% of the rate. Under the Trade Act of 1974, Congress authorized the United States Administration to negotiate to reduce tariffs over 5% by a maximum of 60%, and to eliminate rates of duty that are 5% or less. The USA formula proposes that all industrialized countries agree to reduce higher rates by 60%, the maximum amount authorized by Congress (all this, of course, subject to negotiated exceptions) but does not propose to use the full authority of the Act to negotiate to eliminate rates of duty 5% or less.

### Swiss Proposal

The Swiss proposal would provide for a greater degree of "harmonization" than the U.S. approach (i.e. higher rates of duty would be reduced by proportionately greater amounts than would the lower rates of duty). A rate of duty of  $17\frac{1}{2}\%$  would be reduced by about 55% of the rate, while a 10% rate would be reduced by about 40%. A rate of 5% would be cut by about 25%, and rates below 5% would be reduced by smaller amounts.

### Japanese Proposal

Similarly, the Japanese formula would provide an element of harmonization. Under their approach, a rate of 17% would be reduced by 50% while a rate of 10% would be reduced by 35%. The formula would result in a "floor" of 5%.



### EC Proposal

This formula also contains an element of harmonization. A rate of 17% would be reduced by about 45%, while a rate of 7½% would be reduced by about 24%. The EC formula would establish a "floor" at 2½%.

### Canadian Interest

None of the four proposals by themselves would offer Canada a balanced or equitable tariff negotiating framework or plan. This conclusion is derived from the principal features of Canada's trade patterns and tariff structure which are as follows:

- (a) 90% of Canada's dutiable industrial exports to the USA, the EC and Japan are dutiable at rates of 10% and below (95% to USA, 70% to the EC and 70% to Japan). Moreover, two-thirds of our dutiable industrial exports to the USA are dutiable at rates of 5% or below.
- (b) Conversely, 55% of Canada's dutiable industrial imports from the United States, the EC and Japan are subject to duties over 10%.

All four proposed formulae would lead to substantial cuts in the protective rates in the Canadian tariff (subject, of course, to exceptions) where the bulk of USA, EC and Japanese dutiable exports to Canada are concentrated. Indeed, the EC, Japanese and Swiss formulae would cut these protective duties almost as much as would the USA formula. On the other hand, the EC, Japanese and Swiss formulae provide for smaller cuts in duties 10% and below, the range in which, as stated above, the bulk of Canada's dutiable industrial exports are concentrated. For example,



the EC formula reduces a 10% duty to about 7%, and a 5% duty to about 4%.

Although the USA formula contemplates substantial cuts in duties above 5%, it provides for somewhat smaller cuts in duties 5% and below where a very important part of Canada's exports are concentrated, especially to the USA. The USA has made clear that it would be prepared to negotiate free entry for items in this range of interest to Canada. However, what this could involve would be Canada's negotiating key USA tariff reductions item-by-item, but being required to offer the tariff reductions the USA wants on a quasi-automatic or formula basis, subject, of course, to exceptions.

In order to improve Canada's prospects of obtaining overall reciprocity, Canada is pressing for provisions in the tariff negotiating plan, which may be agreed by the conference, to take account of Canadian interests and objectives. Specifically, Canada is pressing for:

- (a) agreement that provision should be made to include the elimination of low rates of duty (5% or less), subject to the exceptions procedure and subject, of course, to reciprocity being achieved; this would resolve the problem of having to negotiate tariff reductions on items of export interest to Canada so extensively on an item-by-item basis;
- (b) equitable rules on the scope and handling of exceptions. Such rules are needed to reduce the possibility that other countries will make exceptions of products of particular





export interest to Canada. Of course, the rules on exceptions will have to allow for products to be either totally excepted, partially excepted and for due account to be taken of any tariff reductions greater than the formula may call for;

- (c) making possible longer phase-in periods than generally agreed for reductions on more sensitive products.

It should be noted that agreement on any tariff-cutting arrangement or negotiating plan will be only the beginning of the tariff negotiation; the final agreement on the tariff reductions will be somewhat different. As in the Kennedy Round, there will be detailed negotiations regarding each tariff item proposed for exception by each country. Moreover, the agreed formula is expected to apply mainly to industrial products. A range of agricultural products, especially grains, meat and dairy, will probably be negotiated on an item-by-item basis. It has not as yet been decided whether to extend any agreed plan to other agricultural products, or to fisheries products. In addition, it is most unlikely that the formula approach would be extended to tariff items covering petroleum, natural gas and other forms of energy.

Any substantial tariff negotiation will mean changes in the conditions of access into Canada and foreign markets, and hence in the terms of trade for particular products.

#### SECTOR NEGOTIATIONS

The Tokyo Declaration states that the negotiations should aim to "include an examination of the possibilities for the



coordinated reduction or elimination of all barriers to trade in selected sectors as a complementary technique". The sector approach to negotiations is one that Canada has advocated for a number of years as one technique to help achieve the Canadian government's basic objectives of helping to bring about the further processing and manufacturing of Canada's renewable and non-renewable resources prior to export, whenever such processing would be internationally competitive. Trade barriers maintained by the resource importing countries are the major constraint to greater processing in Canada of Canadian resources. Canada will, of course, use both the tariff-cutting plan and the negotiations on NTB's, as well as the sector approach where it is practicable to do so, to reduce those constraints to the fullest extent possible.

In the Group on Sectors, Canada has proposed sector negotiations for forest products and for non-ferrous metals (copper, nickel, zinc and lead) as a technique of achieving the Canadian government's processing policy for those sectors. The Canadian sector proposals specifically aim to reduce to the maximum extent possible in the Tokyo Round all the barriers that restrict and distort the potential trade of products in these sectors (i.e. non-tariff barriers, as well as tariffs) and which thus distort investment patterns.

More specifically, the tariff reductions envisaged for the products in these sectors would go further than may be possible under any generally agreed tariff approach. Similarly, sector negotiations would involve a greater effort toward



eliminating certain non-tariff measures or their trade distorting effects on the products in these sectors than might be possible under agreed general solutions. They would also involve the development of additional rights and obligations (and procedures) to ensure that the liberalization of trade thus achieved is not subsequently impaired by resort to other measures.

The Tokyo Declaration does not refer to the issue of security of supply. However the Declaration was approved in September 1973 before the OPEC oil embargo and price increases. Since then a number of the resource-importing countries have taken the position (in the MTN and in the discussions in the recently concluded Conference on Industrial and Economic Cooperation) that additional rights and obligations regarding export taxes and restrictions relating to the supply of materials should be negotiated on a general basis. These delegations appear to envisage a legal drafting exercise aimed at establishing "symmetry" between the rights and obligations relating to export taxes and restrictions on the one hand, and those relating to tariffs, import restrictions and other import measures on the other. Canada has opposed this approach and argued that improved supply obligations should be negotiated against better access for processed products and that these negotiations should take place in product-related groups, e.g. sectors and agriculture.

#### AGRICULTURE

##### General

Canada, as a major agricultural exporter and





importer, has a major interest in ensuring that the agricultural negotiations do not merely result in a continuation of the status quo. Export earnings provide over 40% of the total cash income of Canadian farmers (of this, some two-thirds represents exports of grains and oilseeds). Therefore, a significant improvement in the terms of access for Canada's agricultural exports and increased stability in international trade in these products are of interest to Canada. A reduction in foreign trade barriers and foreign subsidies could provide Canada with the opportunity to expand exports and to move toward the export of processed agricultural products. For example, Canada now has a competitive advantage or could be expected to develop an advantage, given increased liberalization, in such products as grains, oilseeds and oilseed products, fish and fish products, livestock and meat (including cut-up and processed meat), potatoes and potato products, honey and blueberries.

Canada has notified the USA, the EC and Japan of its export interest in virtually all the agricultural and fishery products it exports or could export to them, indicating the specific tariff items and related non-tariff measures that affect these products. Similar notifications are being prepared for other countries. While negotiating improved trading conditions for agriculture will be difficult, Canada is making a concerted effort to obtain results which will expand agricultural trade under more stable conditions.

Although the details remain to be worked out, there appears to be agreement to address trade liberalization



in the agricultural area on a product-by-product basis. Moreover, there is some readiness to consider international commodity arrangements as possible means of providing improved access and greater stability in international trade for some agricultural products.

In the preparatory stage, discussions in the three product subgroups, i.e. Grains, Dairy Products and Meat, have tended to focus on three interrelated issues --- tariff and non-tariff barriers, the use of export subsidies, and international price fluctuations.

#### Grains

The grains negotiations are in a sense just beginning to move. Under the previous Administration, the USA appeared to be opposed to international commodity arrangements with pricing provisions. In contrast, the position of the EC has been that a grains arrangement with price and stocking provisions would be a quid pro quo for considering adjustments to the EC import regime and export restitution system. It appears that the new Administration in the United States is more favourably disposed toward a commodity arrangement, at least for wheat. This is reflected in the position it has taken on the negotiation of a new wheat agreement in the International Wheat Council (IWC).

There are, therefore, some indications that a basis for a grains liberalization/stabilization "package" is now beginning to emerge. Of course, many issues remain to be



settled. For example, participants need to determine whether they are willing to negotiate commodity arrangements on coarse grains to the same extent as wheat, and whether and to what extent grain products, such as wheat flour and barley malt, are to be covered by a grains arrangement. Similarly, it will be necessary to establish the relationship between the negotiations in the MTN on grains and those underway on wheat in the IWC.

#### Dairy Products and Meat

To date, the focus of work has been the collection of data with respect to current trade problems. Proposals for solutions are expected to be introduced over the course of the autumn.

#### Other Agricultural and Fishery Products

With respect to the products not covered by the three sub-groups mentioned above, the Group on Agriculture has begun a procedure of notification and consultation with respect to all barriers affecting trade in all other agricultural products and in fishery products. The main purpose of this exercise is to allow countries to formally notify their interests and, based on these notifications, to undertake a procedure of examination and dialogue which will prepare the way for substantive negotiations on a product-by-product basis.

Within the context of extended fisheries jurisdiction and the anticipated substantial growth in fish landings, the reduction of barriers is essential to maximize Canadian export potential for both traditional and under-utilized fish species.





Although it has yet to be resolved whether fisheries will be negotiated as agricultural or industrial products, they are currently being considered under the Group on Agriculture by reason of their inclusion within Customs Cooperation Council Nomenclature (better known as the Brussels Tariff Nomenclature - the BTN), Chapters 1 to 24.

#### SAFEGUARDS

Regarding "safeguards" (in the main, Article XIX of the GATT under which imports which threaten serious injury to domestic producers can be restricted), the Tokyo Declaration stated the negotiations "should aim to include an examination of the adequacy of the multilateral safeguard system, considering particularly the modalities of application of Article XIX, with a view to further trade liberalization and preserving its results".

The work of the Group on Safeguards has gradually come to focus on Article XIX, by which contracting parties to the GATT may "suspend" an "obligation (under GATT) in whole or in part" or "withdraw or modify" a GATT "concession" when imports under certain conditions are causing or threatening "serious injury to domestic producers of like or directly competitive products". Such action is required to be temporary and applied in a non-discriminatory manner as between countries. In practice, Article XIX action has generally taken the form of a tariff increase or a quantitative import restriction. (The text of Article XIX is attached as Appendix III.)



The use of Article XIX, or product-related emergency action, against imports raises both questions of export and import interest to the various MTN participants. Canada noted sometime ago in a meeting of the Group on Safeguards:

"The work in this Group is taking place on the basis of the Tokyo Declaration. Delegations will recall that that Declaration enjoins us to undertake our work in this Group 'with a view to further trade liberalization and preserving its results'. We should not lose sight of that objective. We must ensure that the security of concessions which are bought and paid for in this round of trade negotiations and which have been negotiated in earlier rounds are not eroded through the inappropriate use of safeguard action. On the other hand, it is necessary to provide an appropriate mechanism whereby contracting parties can in emergency situations take temporary measures to protect their domestic producers from serious injury."

To date the examination required by the Tokyo Declaration has revealed a number of shortcomings in the application of Article XIX. It has been less clear whether there is anything fundamentally the matter with the Article itself, or whether problems have arisen because countries, in taking emergency action under the Article, have not adhered to its provisions, or have taken such action without referring to the Article at all, as has been the case, for instance, with many "voluntary" export restraint agreements. A number of delegations have



preliminary suggestions on how the safeguard system under Article XIX might be improved. There appears to be a growing consensus among developed countries that it would be useful to develop an interpretative note to Article XIX, or a code interpreting the Article, which would give its provisions more precision. In the coming months, a decision will have to be taken by the participants in the MTN as to whether a basic negotiating text should be developed which would include, or take account of, the various suggestions and ideas which have been put forward.

More specifically, the Safeguards Group has been considering the following issues in its examination of the present safeguard system under Article XIX:

- a) The types of measures which should be included in the system; for instance, should "voluntary" export restraints be included?
- b) Should safeguard measures continue to be applied in a non-discriminatory manner as between the exports of different countries?
- c) The criteria for taking safeguard action: the discussion has focussed, for example, on whether the concept of "serious injury" should be elaborated in more detail.
- d) The conditions which should be followed when safeguard action is taken, including:
  - i. the period of time for which safeguard action might be maintained and the question of whether, or when, it may be reintroduced;





- ii. degressivity, i.e. the question of whether safeguard action must be gradually phased out, or terminated in one step;
- iii. the question of at what level a country might be allowed to restrict imports, as compared with the historical levels of such imports;
- iv. the question of whether safeguard action should be accompanied by an adjustment program or assistance or by some other effort on the part of the industry concerned to adjust to the situation;
- v. the related issues of notification, consultation and the settlement of disputes and the rights, obligations and procedures which should apply in this area; and
- vi. the question of the right of contracting parties to suspend "substantially equivalent concessions" vis-à-vis the trade of a contracting party which has taken safeguard action against its exports. Discussion under this heading is obviously related to the question of the payment of "compensation" when safeguard action is taken.

#### TROPICAL PRODUCTS

The Tokyo Declaration states that the negotiations should take into account the specific trade problems of the developing countries. A separate negotiating Group on Tropical



Products was established to fulfil the commitment in the Tokyo Declaration to "treat tropical products as a special and priority sector".

"Request lists" in product terms were prepared by developing countries followed by the submission by developed countries of "offers" to reduce tariffs on particular products. On this basis, tariff reductions were agreed and have been implemented by a number of developed countries on a range of products of export interest to developing countries. Canada's tropical products' offer was implemented in the Budget which was presented to Parliament on 31st of March last.

These concessions on tropical products are the first concrete results of the current multilateral trade negotiations, and are taking effect before the negotiations have been completed as a whole. Many developing countries derive a major part of their earnings from exports of tropical products, such as coffee, cocoa, tea, spices and a variety of other goods in raw, processed and semi-processed forms. It is expected that work will continue in the Group on Tropical Products throughout the negotiations to ensure that the interests of developing countries, in respect of products identified by them, will be taken into account as progress is made in other areas of the MTN.

#### FRAMEWORK GROUP

The Tokyo Declaration states that "...consideration shall be given to improvements in the international framework for the conduct of world trade which might be desirable in the light of the negotiations....".



Following a Brazilian proposal, the Trade Negotiations Committee established a new negotiating group, known as the Framework Group, whose task is to "seek to negotiate improvements in the international framework for the conduct of world trade, particularly with respect to trade between developed and developing countries and differential and more favourable treatment to be adopted in such trade". A major focus of the group will consequently be to establish the relationship between the current GATT provisions (particularly the Most-Favoured-Nation provision) and Special and Differential treatment agreed in certain negotiating areas.

For a range of issues addressed elsewhere in the negotiations, Canada and other participants are examining improved provisions and procedures regarding surveillance and dispute settlement designed to ensure that the results of the MTN are not eroded or dissipated by the actions of foreign governments.

This approach to surveillance and dispute settlement procedures has been set out in proposals regarding particular areas of the negotiations. In the negotiations on government procurement, product standards, sector negotiations, and subsidies and countervailing measures, it has been proposed that there should be agreed procedures to maintain a constant measure of surveillance and scrutiny of the operation of these specialized agreements or codes and ready provision for dispute settlement. These mechanisms would be designed primarily to ensure that the trade liberalization for which countries are negotiating in Geneva would not be nullified or impaired by the use of other unregulated measures to restrain trade. In this



way small countries could be assured that the benefits they have bargained for will be secure.

## OUTLOOK

In the Declaration issued at the conclusion of the Downing Street Summit on 8 May 1977, the Heads of State and Government of seven major industrialized nations, including Canada, undertook in respect of the trade negotiations underway in Geneva, to "provide strong political leadership to expand opportunities for trade to strengthen the open international trading system, which will increase job opportunities. We reject protectionism: it would foster unemployment, increase inflation and undermine the welfare of our peoples. We will give a new impetus to the Tokyo Round of Multilateral Trade Negotiations. Our objective is to make substantive progress in key areas in 1977".

In the Annex to the Summit, the following comments were made on trade:

"We are committed to providing strong political leadership for the global effort to expand opportunities for trade and to strengthen the open international trading system. Achievement of these goals is central to world economic prosperity and the effective resolution of economic problems faced by both developed and developing countries throughout the world.... We are therefore agreed on the need to maintain our political commitment to an open and non-discriminatory world trading system. We will seek both nationally and through the appropriate international institutions to promote solutions that create new jobs and consumer benefits through expanded trade and to avoid approaches which restrict trade. The Tokyo Round of Multilateral Trade Negotiations must be pursued vigorously. The continuing economic difficulties make it even more essential to achieve the objectives of the Tokyo Declaration and to negotiate a comprehensive set of agreements to the maximum benefit of all. Toward this end, we will seek this year to achieve substantive progress in such key areas as:





- 1) A tariff reduction plan of broadest possible application designed to achieve a substantial cut and harmonization and in certain cases the elimination of tariffs;
- 2) Codes, agreements and other measures that will facilitate a significant reduction of non-tariff barriers to trade and the avoidance of new barriers in the future and that will take into account the structural changes which have taken place in the world economy;
- 3) A mutually acceptable approach to agriculture that will achieve increased expansion and stabilization of trade, and greater assurance of world food supplies.

Such progress should not remove the right of individual countries under existing international agreements to avoid significant market disruption.

While seeking to conclude comprehensive and balanced agreements on the basis of reciprocity among all industrial countries we are determined, in accordance with the aims of the Tokyo Declaration, to ensure that the agreements provide special benefits to developing countries."

It is expected that for the balance of 1977, priority will be given in Geneva to reaching an agreement on the approach to the tariff negotiations, including a decision on the nature of the tariff cutting formula, and some elaboration of the rules and procedures concerning exceptions from the formula and the staging of tariff reductions. In parallel, Canada will be seeking agreement on its proposal for sector negotiations, which would include dealing with security of supply of the products covered by these sectors. In the agricultural area, the major question will be whether and to what extent elements of international trade in grains are to be dealt with in the MTN.

As for non-tariff barriers as such for the remainder of 1977, Canada will be pressing in particular for substantial progress on subsidies and countervailing measures, and on government procurement.



## Appendix I

### BACKGROUND

The "Tokyo Round", currently going forward in Geneva, is the seventh in a series of multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT). The "GATT" was provisionally agreed to by 23 countries in 1947, pending the establishment of the proposed "Havana Charter" which would have led to an International Trade Organization, parallel to the IMF and IBRD. The GATT was based on certain key provisions of the Havana Charter and was intended to provide, on an interim basis, the international arrangements necessary to provide a framework of rules regulating trade relations on a more systematic basis than the pre-war network of bilateral agreements. The Havana Charter, however, was not approved and consequently the GATT became the internationally-accepted basis for the regulation of trade relations and provided the framework within which trade liberalization was negotiated on a multilateral basis.

The first six negotiations which took place under the GATT were held as follows:

- Geneva, 1947;
- Annecy, France, 1949;
- Torquay, England, 1951;
- Geneva, 1956;
- Geneva, 1960-61 (the "Dillon Round");
- Geneva, 1964-67 (the "Kennedy Round").

Canada participated in all these negotiations.

Broadly speaking, two main techniques to reduce tariffs have been used in the six previous rounds of multilateral tariff negotiations. The first approach, which was used in the



first five tariff conferences, consists of an item-by-item process under which each negotiating country specifies the tariff concessions it wants from each other country and sets out its offer to pay for such concessions in terms of a list of proposed tariff reductions. The second approach, which was adopted, to an extent, in the Dillon Round and in the Kennedy Round, calls for the negotiation of tariffs on the basis of a linear or across-the-board reduction of a certain agreed percentage of each tariff rate, subject to specified exceptions.

In the Kennedy Round, the major industrialized countries agreed to work toward a 50% linear reduction in their tariffs on industrial goods. Exceptions were permitted in the Kennedy Round, but these were subject to a rigorous process of confrontation and justification and, eventually, to item-by-item negotiation. While Canada's chief trading partners, the USA, the EEC and Japan, participated in this linear approach to tariff cutting in the Kennedy Round, Canada did not. Canada negotiated its tariff reductions on an item-by-item basis, and with the agreed objective of reaching overall reciprocity, that is, a mutually advantageous exchange of tariff and other concessions with each of its trading partners.

On 24 November 1967, 5 months after the "Kennedy Round" was concluded, Ministers met in Geneva and agreed that there should be a more comprehensive trade negotiation, to deal with all barriers to international trade, not just tariffs.





Then in 1972, the USA, the EEC, Japan and Canada, in a series of public declarations, called for a further round of multilateral trade negotiations as a result of the Smithsonian agreement on monetary matters in 1971.

These countries undertook:

"to initiate and actively support multilateral and comprehensive negotiations in the framework of GATT beginning in 1973 with a view to expansion and liberalization of world trade, improvement in the international framework for the conduct of commercial relations, and improvements in the standard of living of the people of the world. These multilateral negotiations shall be conducted on the basis of mutual advantage and mutual commitment with overall reciprocity, and shall cover agricultural as well as industrial trade".



## COMPARISON OF TARIFF FORMULA PROPOSALS FOR SELECTED RATES OF DUTY

Initial Rate of Duty (%)	UNITED STATES		SWITZERLAND		JAPAN		EUROPEAN COMMUNITIES	
	Final Rate Percent- of Duty (%)	age Red'n	Final Rate Percent- of Duty (%)	age Red'n	Final Rate Percent- of Duty (%)	age Red'n	Final Rate Percent- of Duty (%)	age Red'n
1	0.5	51.5	0.9	6.7	1.0	0	1.0	0
2	0.9	53.0	1.7	12.50	2.0	0	2.0	0
3	1.4	54.5	2.5	17.6	3.0	0	2.7	11.0
4	1.8	56.0	3.1	22.2	4.0	0	3.4	14.3
5	2.1	57.5	3.7	26.3	5.0	0	4.1	17.3
7.5	3.0	60.0	4.9	34.9	5.8	23.3	5.6	24.3
10	4.0	60.0	5.8	41.7	6.5	35.0	5.9	30.5
12.5	5.0	60.0	6.6	47.2	7.2	42.0	8.0	35.8
15	6.0	60.0	7.2	51.7	8.0	46.7	8.9	40.6
17.5	7.0	60.0	7.8	55.6	8.7	50.0	9.6	44.8
20	8.0	60.0	8.2	58.8	9.5	52.5	10.3	49.6
22.5	9.0	60.0	8.6	61.6	10.2	54.4	10.8	52.0
25	10.0	60.0	9.0	64.1	11.0	56.0	11.2	55.0
30	12.0	60.0	9.5	68.2	12.5	58.3	11.9	60.3
35	14.0	60.0	10.0	71.4	14.0	60.0	12.4	64.6
40	16.0	60.0	10.4	74.1	15.5	61.2	12.7	68.3
50	20.0	60.0	10.9	78.1	18.5	63.0	12.9	74.2



## General Agreement on Tariffs and Trade

### Article XIX

#### *Emergency Action on Imports of Particular Products*

1. (a) If, as a result of unforeseen developments and of the effect of the obligations incurred by a contracting party under this Agreement, including tariff concessions, any product is being imported into the territory of that contracting party in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers in that territory of like or directly competitive products, the contracting party shall be free, in respect of such product, and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend the obligation in whole or in part or to withdraw or modify the concession.

(b) If any product, which is the subject of a concession with respect to a preference, is being imported into the territory of a contracting party in the circumstances set forth in sub-paragraph (a) of this paragraph, so as to cause or threaten serious injury to domestic producers of like or directly competitive products in the territory of a contracting party which receives or received such preference, the importing contracting party shall be free, if that other contracting party so requests, to suspend the relevant obligation in whole or in part or to withdraw or modify the concession in respect of the product, to the extent and for such time as may be necessary to prevent or remedy such injury.

2. Before any contracting party shall take action pursuant to the provisions of paragraph 1 of this Article, it shall give notice in writing to the CONTRACTING PARTIES as far in advance as may be practicable and shall afford the CONTRACTING PARTIES and those contracting parties having a substantial interest as exporters of the product concerned an opportunity to consult with it in respect of the proposed action. When such notice is given in relation to a concession with respect to a preference, the notice shall name the contracting party which has requested the action. In critical circumstances, where delay would cause damage which it would be difficult to repair, action under paragraph 1 of this Article may be taken provisionally without prior consultation, on the condition that consultation shall be effected immediately after taking such action.

3. (a) If agreement among the interested contracting parties with respect to the action is not reached, the contracting party which proposes to take or continue the action shall, nevertheless, be free to do so, and if such action is taken or continued, the affected contracting parties shall then be free, not later than ninety days after such action is taken, to suspend, upon the expiration of thirty days from the day on which written notice of such suspension is received by the CONTRACTING PARTIES, the application to the trade of the contracting party taking such action, or, in the case envisaged in paragraph 1 (b) of this Article, to the trade of the contracting party requesting such action, of such substantially equivalent concessions or other obligations under this Agreement the suspension of which the CONTRACTING PARTIES do not disapprove.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, where action is taken under paragraph 2 of this Article without prior consultation and causes or threatens serious injury in the territory of a contracting party to the domestic producers of products affected by the action, that contracting party shall, where delay would cause damage difficult to repair, be free to suspend, upon the taking of the action and throughout the period of consultation, such concessions or other obligations as may be necessary to prevent or remedy the injury.

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